

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

SEP 12 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

DEREK RUSSELL THOMPSON,

Appellant.

2 CA-CR 2007-0366

DEPARTMENT A

MEMORANDUM DECISION

Not for Publication

Rule 111, Rules of
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20071577

Honorable Frank Dawley, Judge Pro Tempore

AFFIRMED

DiCampi, Elsberry & Hunley, LLC
By Anne Elsberry

Tucson
Attorneys for Appellant

B R A M M E R, Judge.

¶1 After a bench trial, appellant Derek Russell Thompson was convicted of possession of a deadly weapon by a prohibited possessor. The trial court found Thompson

had one historical prior felony conviction and sentenced him to a substantially mitigated prison term of 2.25 years. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing she has reviewed the entire record and found no arguable issue to raise on appeal. In compliance with *Clark*, counsel has provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Thompson has not filed a supplemental brief.

¶2 Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel’s recitation of the facts. After the trial court personally addressed Thompson about his right to a jury trial in accordance with Rule 18.1, Ariz. R. Crim. P., and also advised him of his right to confront adverse witnesses, he waived his jury trial and confrontation rights and agreed the matter would be tried by the court based on submitted evidence.¹

¶3 Viewed in the light most favorable to upholding the trial court’s finding of guilt, *see State v. Ossana*, 199 Ariz. 459, ¶ 2, 18 P.3d 1258, 1259 (App. 2001), the evidence established Thompson was on probation on April 16, 2007, when Pima County probation officer Martin Arteaga went to Thompson’s home, conducted a search of his

¹Before trial, the state also withdrew its allegation that Thompson’s sentence would be subject to enhancement because he had been on probation at the time of the offense. *See* A.R.S. § 13-604.02(B).

bedroom, and discovered two firearms. Thompson stipulated he was the same defendant named in a Pima County Superior Court certified judgment of conviction for an undesignated offense committed in 2006, a historical prior felony conviction. *See* A.R.S. § 13-604(W)(2)(c).

¶4 Substantial evidence supported findings of all the elements necessary for Thompson's convictions, *see* A.R.S. §§ 13-3101(6)(d), 13-3102(A)(4), and the sentences imposed by the trial court were within the statutory range authorized by A.R.S. §§ 13-604 and 13-702.01. We find no fundamental error and therefore affirm Thompson's convictions and sentences.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

JOHN PELANDER, Chief Judge

JOSEPH W. HOWARD, Presiding Judge